

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

PUSH DATA LLC,

Plaintiff,

v.

WAYFAIR INC. and WAYFAIR LLC,

Defendant.

**Civil Action No. 4:23-cv-01126-ALM**

**JURY TRIAL DEMANDED**

**PROPOSED SCHEDULING ORDER**

<b>Event</b>	<b>Proposed Deadline*</b>
P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions (and P.R. 3-2 document production) to be served.	June 21, 2024
P.R. 3-3 Invalidity Contentions (and P.R. 3-4 document production) to be served.	July 16, 2024
Join additional parties.  To the extent not already required to be disclosed, exchange Mandatory Disclosures on all issues, including damages.	July 16, 2024
Parties to exchange proposed terms for construction and identify any claim element governed by 35 U.S.C. § 112, ¶ 6 (P.R. 4-1).	July 26, 2024
Privilege logs to be exchanged by parties (or a letter to the Court stating that there are no disputes as to claims of privileged documents).	July 30, 2024
Parties to exchange preliminary proposed claim construction and extrinsic evidence supporting same. (P.R. 4-2).	Aug. 9, 2024
Parties' Final Amended Pleadings. (A motion for leave is required.)	Sept. 17, 2024
Joint Claim Construction and Prehearing Statement to be filed. (P.R. 4-3). Provide an estimate of how many pages are needed to brief the disputed claims.	Sept. 16, 2024

\*Push Data proposes the following deadlines. Wayfair has filed a motion for a protective order staying discovery and all pretrial proceedings (ECF 21) pending a ruling on its motion to dismiss or transfer (ECF 10), which Push Data opposes. If the Court denies Wayfair's motion for a protective order, Wayfair does not oppose the proposed deadlines.

Respond to Amended Pleadings.	October 1, 2024
Completion date for discovery on claim construction. (P.R. 4-4).	October 14, 2024
Opening claim construction brief. (P.R. 4-5(a)).	October 29, 2024
Responsive claim construction brief. (P.R. 4-5(b)).	Nov. 12, 2024
Reply claim construction brief. (P.R. 4-5(c)).	Nov. 19, 2024
Submit technology synopsis/tutorial (both hard copy and disk).	Nov. 26, 2024
Parties to file joint claim construction and chart. (P.R. 4-5(d)). Parties shall work together to agree on as many claim terms as possible.	Dec. 3, 2024
Proposed Claim Construction hearing	Dec. 13, 2024
Deadline for Initial Mandatory Disclosure of all persons, documents, data compilations and tangible things, which are relevant to a claim or defense of any party and which has not previously been disclosed. This deadline is not an extension of earlier deadlines set out in this Court's order or the Patent Rules, nor an excuse to delay disclosure of information. It is a "catchall" deadline for provision of all remaining information which may be relevant to a claim or defense of any party at trial.	Jan. 17, 2025
Parties shall notify the Court of the name, address, and telephone number of the agreed-upon mediator, or request that the Court select a mediator, if they are unable to agree on one.	Jan. 3, 2025
Parties with burden of proof to designate Expert Witnesses other than claims construction experts and provide their expert witness reports, to include for ALL experts all information set out in Rule 26(a)(2)(B).	Feb. 14, 2025

Comply with P.R. 3-7 (Designation of Willfulness Opinions).	
Parties to Designate Expert Witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness report, to include for ALL experts all information set out in Rule 26(2)(B).  Note: Objections to any expert, including <i>Daubert</i> motions, shall be filed within 3 weeks after the expert's Report has been disclosed. Such objections and motions are limited to ten pages each.	Feb. 28, 2025
Mediation deadline.	Feb. 28, 2025
Discovery deadline. All discovery must be served in time to be completed by this deadline.	Mar. 14, 2025
File Dispositive Motions and any other motions that may require a hearing. Regardless of how many dispositive motions a party files, each party is limited to a total of sixty pages for such motions. Each individual motion shall comply with Local Rule CV-7.  Responses to motions shall be due in accordance with Local Rule CV-7(e).	Mar. 14, 2025
Counsel and unrepresented parties are each responsible for contacting opposing counsel and unrepresented parties to determine how they will prepare the Joint Final Pretrial Order, <i>see</i> www.txed.uscourts.gov, and Proposed Jury Instructions and Verdict Form (or Proposed Findings of Fact and Conclusions of Law in nonjury cases).	June 16, 2025
Motions in limine due.  File Joint Final Pretrial Order. Exchange Exhibits and deliver copies to the Court. At this date, all that is required to be submitted to the Court is a hyperlinked exhibit list on disk (2 copies) and no hard copies.	June 20, 2025

<p>Video Deposition Designation due. Each party who proposes to offer a deposition by video shall serve on all other parties a disclosure identifying the line and page numbers to be offered. All other parties will have seven calendar days to serve a response with any objections and requesting cross examination line and page numbers to be included. Counsel must consult on any objections and only those which cannot be resolved shall be presented to the Court. The party who filed the initial Video Deposition Designation is responsible for preparation of the final edited video in accordance with all parties' designations and the Court's rulings on objections.</p>	June 23, 2025
<p>Response to motions in limine due. File objections to witnesses, deposition extracts, and exhibits, listed in pre-trial order. (This does not extend the deadline to object to expert witnesses.) If numerous objections are filed, the Court may set a hearing prior to docket call.</p> <p>File Proposed Jury Instructions/Form of Verdict (or Proposed Findings of Fact and Conclusions of Law).</p> <p>File proposed Voir Dire Questions</p>	July 7, 2025
Final Pretrial Conference	July 21, 2025
Jury Selection and Trial	TBD